

REMARKS

Claims 1-27 are currently pending. Claims 1-12, 14, 15 and 19-23 are withdrawn.

Claims 13, 16-18, and 24-27 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,833,652 to Preissman et al.

Reconsideration is requested as the pending claims are patentable over Preissman at least because it does not disclose or suggest "a mixing chamber ... having a passageway ... connecting the mixing chamber to the second lumen, the passageway containing a ... membrane" as recited in independent claims 13 and 18.

Independent claims 13 and 18 both recite a first lumen, a second lumen, a mixing chamber, and an exit orifice. In each case, the mixing chamber is described as having a passageway connecting it to the second lumen wherein the passageway contains a membrane. Nowhere in Preissman is such a membrane disclosed or suggested, let alone one that is selectively permeable as in the claims.

The Office action's annotated Fig. 2 from Preissman fails to show that Preissman anticipates the pending claims. The feature highlighted in Fig. 2 as the mixing chamber is a portion of the inner lumen 10 of the dual lumen catheter in Preissman. This portion of the lumen 10 has solid walls and is without a fluid passage to the second lumen.

Preissman discloses a device having a first lumen, a second lumen, an exit orifice, and a mixing chamber. See below and Figures 1 and 2.

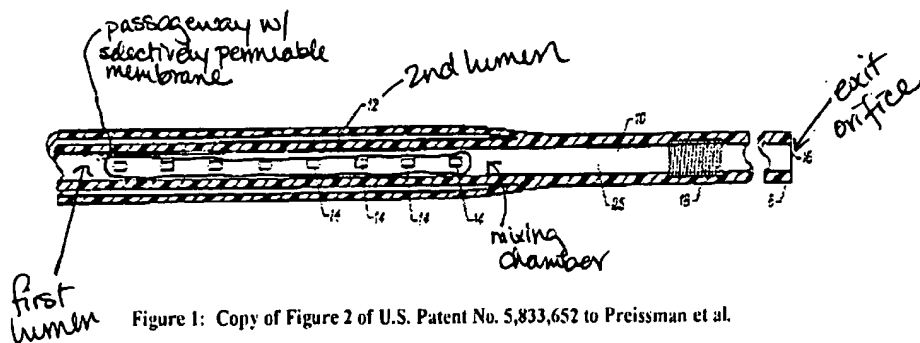


Figure 1: Copy of Figure 2 of U.S. Patent No. 5,833,652 to Preissman et al.

Thus, the annotated figure fails to show that Preissman has a mixing chamber with a passageway to the second lumen.

Even if other interpretations are considered, they too fail to prove that Preissman renders the claims unpatentable. If the upstream portion of the inner lumen designated as the

passageway and membrane (the circled portion) is considered part of the mixing chamber, this reading fails either because the recited membrane is not present or because the recited fluid passage to the second lumen is not present. If the inner lumen 10 is considered to be the mixing chamber, the only passage to the second lumen from this chamber comprises the passages 14. These passages, however, do not have a membrane as recited in the claims. Alternatively, if the area circled in the Office action, which contains portions of the lumen wall 10 and the passages 14 themselves, is read to be the membrane, then Preissman lacks a passageway linking the mixing chamber to the second lumen. The lumen 10 does not link this mixing chamber to the second lumen and the combination of the lumen wall 10 and passages 14 may not be read as being both a passage to the second lumen and a membrane. Thus, under any reading, the claims are patentable over Preissman.

As to claim 16, it is also patentable at least because Preissman also fails to disclose or suggest that the membrane “is adapted to extract a solvent from fluid in contact with the selectively permeable membrane.” As explained above, the orifices 14 of Preissman allow all materials to flow through it. There is no provision in the patent to extract a solvent as in claim 16.

As to claims 24-26, they are also patentable at least because there is no disclosure in Preissman that the membrane will comprise a metal, a polycarbonate, or glass microfibrils as in these claims.


CONCLUSION

Reconsideration and allowance of each of the pending claims is requested as they are patentable over the cited references at least based on the preceding discussion.

While no fees are believed to be due, the Office is authorized to charge any underpayment or credit any overpayment to Kenyon & Kenyon's Deposit Account No. 11-0600.

Respectfully submitted,
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